# SIKKIM

# GOVERNMENT GAZETTE

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**GOVERNMENT OF SIKKIM**
**LAW DEPARTMENT**
**GANGTOK**

**No: 10/LD/RC/2007** **Dated 13.02.2007.**

The following Act of Parliament having received the assent of the President on the 22nd August, 2006, is hereby republished for general information:-

## THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2006

**(No.33 OF 2006)** **22nd August, 2006**

An Act to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.

Be it enacted by Parliament in the Fifty-Seven Year of the Republic of India as follows:-

***Short title***

1. This Act may be called the Juvenile Justice (Care and Protection of Children)Act,2006.

***56 Of 2000***

***Amendment of long title***

2. In the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the principle Act, ) in the long title, for the words "through various institutions established under this enactment", the words" and for matters connected therewith or incidental thereto" shall be substituted.

***Amendment of section 1***

3. In section 1 of the principle Act,-
(i) in the marginal heading, for the words " and commencement", the words commencement and application" shall be substituted.
(ii) After sub-section (3), the following sub-section shall be inserted, namely:-

"(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all cases involving detention, prosecution, penalty or sentence of imprisonment of juveniles in conflict with law under such other law".

***Amendment of section 2***

4. In section 20 of the principal Act.-

(i) after clause (a), the following clause shall be inserted, namely:-

'(aa) "adoption" means the process through which the adopted child is permanently separated form his biological parents and become the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that attached to the relationship;

(ii) in clause (d),-

(I)after sub - clause (i), the following sub - clause shall be inserted, namely:-

"(ia) who is found begging, or who is either a street child or a working child,":

(II) in sub-clause (v), after the word 'abandoned', the words 'or surrendered' shall be inserted;

(III) in sub-clause (h), for the words "competent authority", the words

"State Government on the recommendation of the competent authority" shall be substituted;

(IV) for clause (1) , the following clause shall be substituted, namely:-

'(1) " Juvenile in conflict with law" means a juvenile who is alleged to have committed n offence and has not completed eighteenth year of age as on the date of commission of such offence;'

***Omission of Certain Expressions***

5. Throughout the principal Act, the words 'local authority', 'or local authority' and 'or local authority'. Wherever they occur, shall be omitted.

***Amendment of section 4.***

6. In section 4 of the principal Act, in sub-section (1), for the words 'by notification in the official Gazette, constitute of a district or a group of districts specified in the notification the words 'within period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette constitute for every district' shall be substituted.

***Amendment of section 6.***

7. In section 6 of the principal Act, in sub-section (1), the words 'or a group of districts' shall be omitted.

***Insertion of New section 7A***

8. After section 7 of the principal Act, the following section shall be inserted, namely;-

***Procedure to opinion Be followed When claim to of juvenile is***

"7A. (1) Whenever a claim of juvenility is raised before any court or a court is of the

that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary) but not an affidavit) so as determine the

*juvenile*

age of such person, and shall record a finding whether the person is a juvenile

*Any court.*

Raised before or a child or not, stating his age as nearly as may be:

Provided that a claim of juvenility may be raised before any court and it shall be recognized at any stage, even after final disposal of the case, and such claim shall determined in terms of the provisions contained in this Act and the rules made there under, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate order, and the sentence if any, passed by a court shall be deemed to have no effect."

***Amendment section 10.***

9. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be of substituted, namely:-

"(1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended,, to the Board:

Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in jail."

***Amendment of section 12***

10. In section 12 of the principal Act, in sub-section (1), after the words" with or without surety", the wards "or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person" shall be inserted.

***Amendment of section 14***

1. Section 14 of the principal Act shall renumbered as sub-section

(1)thereof, and after sub-section (1) as so renumbered, the following sub- section shall be inserted, namely:-

"(2) The chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board at every six months, and shall direct the Board to increase the frequency of its sittings or may cause the constitution of additional Boards."

***Amendment of section 15***

2. In section 15 of the principal Act, in sub-section (1), for clause (g), the following clause shall be substituted, namely:-

"(g) make an order directing the juvenile to be sent to a special home for a period of three year s:

Provided that the Board may, if it is satisfied that having

regard to the nature of the offence and the circumstances of the case, it is expedited so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit."

13. In section 16 of the principal Act,- **Amendment of section 16**

(i) in sub-section (1), for the words "or life imprisonment", the words "or imprisonment for any term which may extend to imprisonment for life" shall be substitute:

(ii) in sub-section (2), for the proviso, the following provision shall be substituted,, namely:-

"Provided that the period of detention so ordered shall not exceed in any case the maximum period provided under section 15 of this Act."

14. In section 20 of the principal Act, the following proviso and Explanation shall be inserted, namely:- **Amendment of section 20.**

"Provided that the Board may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of such juvenile.

**Explanation** – In all pending cases including trial, revision, appeal or any other criminal proceedings in respect of a juvenile in conflict with law, in any court, the determination of juvenility of such a juvenile shall be in terms of clause (1) of section 2, even if the juvenile ceases to be son on or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purpose and at all material times when the alleged offence was committed."

15 .For section 21 of the principal Act, the following section shall be substituted namely:- ***Substitution of new section for section 21. Prohibition of name, etc, of juvenile in conflict with law or child in need of care and protection Involved in any proceeding under the Act.***

"21.(1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in convict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or chilled be publish:

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in it opinion such is in the interest of the juvenile or the child.

(2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees".

**Amendment Of section 29.**

16. In section 29 of the principal Act, in sub-section (1), for the wards "by notification in official Gazette, constitute for every district, or group of Districts specified in the notification', the wards 'within a period of One year from the date of commencement of the Juvenile Justice (Care And Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district' shall be substituted .

**Amendment Of section 32.**

17. In section 32 of the principal Act,—

(a) in sub-section (1),- (1)in clause (iv), the wards 'authorized by the State Government' shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:-

"Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey',

(b) in sub-section (2), the words 'to the police and' shall be omitted.

**Amendment Of section 33.**

18. In section 33 of the principal Act,,-

(a) in sub-section (1), the wards 'or any police officer or special Juvenile police unit or the designated police officer' shall be omitted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:-

'(3) The State government shall review the pendency of case of the Committee at every six months, and shall Committee to increase the Frequency of its sittings or may cause the constitution of additional Committees.

(4) After the completion of the inquiry, if the Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years',

**Amendment Of section 34.**

19. In section 34 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

'(3) Without Prejudice to anything contained in any law for the time being in force, all institutions, whether State government run or those run by voluntary organizations for children in need of care and protection shall, within a period of six months from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, be registered under this Act in Such Manner as may be prescribed",

**Amendment Of section 39.**

20. In section 39 of the principal Act, for the Explanation the following Explanation shall be substituted, namely:-

' **Explanation-** For the purpose of this section 'restoration of and protection of a child" means restoration to_

(a) parents;

(b) adopted parents;
(c) foster parents;
(d) guardian;
(e) fit person;
(f) fit institution'.

**Amendment of section 41.**

21. In section 41 of the principal Act, -

(i) for sub-sections (2), (3) and (4), the following sub-section shall be substituted, namely;-

"(2) Adoption shall be resorted to for the rehabilitation of the children who are orphan, abandoned or surrendered through such mechanism as may be prescribed.

(3)In keeping with the provisions of the various guidelines for adoption issued form time to time, by the State government, or the Central Adoption Resource Agency and notified by the Central Government, Children may be given in adoption by a court after satisfying itself regarding the invest igations having been carried out, as are required for giving such children in adoption.

(4) The State government shall recognize one or more of its institutions or voluntary organization in each district as specialized adoption agencies in such manner as may be prescribed for the placement of orphan, abandoned or surrendered children for adoption in accordance with the guidelines notified under sub-section (3):

Provided that the children's homes and the institutions run buy the State government or a voluntary organization for children in need of care and protection, who are orphan, abandoned or surrendered, shall ensure that these children are declared free for adoption by the committee and all such cases shall be referred to the adoption agency in that district for placement of such children in adoption in accordance with the guidelines notified under sub-section (3)",

(ii) for sub-section (6), the following sub-section shall be substituted, namely :-

"(6) The court may allow a child to be given in adoption-

(a)to a person irrespective of marital status; or

(b)to person to adopt a child of same sex respective of the number of living biological sons or daughters; or

© to childless couples",

**Substitution of new section for section 57. Transfer between children's homes under the Act.**

22. For section 57 of the principal Act, the following section shall be substituted, namely:-

"57 The State Government may direct any child or the Juvenile to be transferred from any children's home or special home within the State to any other children's home, special home or institution of a Like nature or to such institutions outside the State in consultation With the

concerned State Government with the prior intimation to The Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.

**and juvenile homes of like nature in different art of India.**

23. In section 59 of the principal Act, in sub-section (2), for the wards "for maximum seven days", the wards" for a period generally not exceeding seven days: shall be substituted.

Insertion of

**New section 62 A. Constitution of Child Protection Unit Responsible for Implementation Of the Act.**

24. After section 62 of the principal Act, the following section shall be inserted namely:-

"62A. Every State Government shall constitute a Child Protection Unit for the State and, such Unit for every District, consisting of such officers and other employees as may be appointed by that Government, to take up matters relating to children in need of care and protection and juveniles in conflict with law a view to ensure the implementation of this Act including the establishment and maintenance of homes, Notification of competent authorities in relation to these children and their rehabilitation. And co-ordination with various official and non-official agencies concerned",.

**Amendment of Section 64.**

25. In section 64 of the principal Act,_

(i) for the words " may direct", the wards "shall direct" shall be substituted:

(ii)the following proviso and Explanation shall be inserted, namely:-

"Provided that the State government, or as the case may be the Board, may, for any adequate and special reason to be recorded in writing, review the case of a juvenile in conflict with law undergoing a sentence of imprisonment, who has ceased to be so on or before the commencement of this Act, and pass appropriate order in the interest of such juvenile.

Explanation- In all cases where a juvenile in conflict with law is undergoing a Sentence of imprisonment at any stage on the date of commencement of this Act, His case including the issue of juvenile, shall be deemed to be decided in terms of Clause (1) of section 2 and other provisions contained in this Act and the rules made thereunder, irrespective of the fact that he cases to a juvenile on or before such date and accordingly he shall be sent to the special home or a fit institution, as the case may be, for the remainder of the period of the sentence by such sentence shall not in any case exceed the maximum period provided in section 15 of this Act."

**Amendment Of section 68.**

26. In section 68 of the principal Act,-

(a) in sub-section (1), the following proviso shall be inserted, namely:-

"Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they conform to such model rules."

(b) in sub-section (2),—

(i) in clause (x), after the wards, letter and brackets "sub-section (2)", the following wards,letter and brackets shall be inserted, namely:-

"and the manner of registration of institutions under sub-section (S)"

(ii) after clause (xii), the following clause shall be inserted, namely:-

"(xiia) rehabilitation mechanism to be resorted to in adoption under sub- section (2),notification of guidelines under sub-section (3) and the manner of recognition of specialized adoption agencies under sub-section (4) of section 41.",© sub-section (3) shall be re-numbered as sub-section (4) thereof, and before sub-section (4) as so re-numbered, the following sub-section shall be inserted namely:-

"(3) Every rule make by the Central government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total of thirty days which may be comprised in one session or in two or more successive sessions aforesaid, session and if before the expiree of the immediately following the successive sessions aforesaid, both Houses agree in making any modification in the rules or both House agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however,that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rules".-

**K.N. CHATURVEDI,**
**Secy. To the Govt. of India.**

**By Order.**

**R.K. Purkayastha, (SSJS)**
**Secretary-cum- Commissioner**
**Law Department**
**Government of Sikkim**

*S.G.P.G. - 74/ Gazette/ 150 Cps./ 16. 03. 2007*